

CHAPTER 6. TRADE REGULATIONS, CUSTOMS AND STANDARDS

TRADE BARRIERS

Tariffs on Agriculture and Food Products

The Thai Government is complying with its WTO tariff reduction commitments and has significantly eased other barriers for a small, select group of agricultural and food products in the past several years. The United States has benefited from these measures through increased sales and/or additional market share.

Nevertheless, Thailand's high tariff structure remains a major market access impediment. Duties on many high-value fresh and processed food products are especially high. Even though the rates will decline by 33 to 50 percent under the WTO, most items will remain in the 30 to 40 percent range by the year 2004 -- high compared with Malaysia, Singapore and Indonesia. Thus, producers of meats, certain fresh and dried fruits, juices, and other packaged items may still find it difficult to penetrate the Thai market.

Thailand's tariff rate quotas for a selected number of agricultural products were adjusted in 1996. In some cases, Thailand has lowered applied tariffs on agricultural and food products below its WTO commitments. For example, in October 1996, Thailand eliminated the quota for soybeans and reduced tariffs on soybean meal when specific domestic purchase requirements were met. Corn is still subject to a tariff-rate quota based on domestic wholesale corn prices. Rice is subject to a "safeguard" on importation and price levels, pursuant to WTO rules.

Non-Tariff Barriers

In addition to high duties, other Thai policies continue to impose tough barriers on imports of products. For example, Thailand's food registration and labeling requirements are time-consuming and costly for suppliers of processed food products.

Phytosanitary standards continue to be a source of concern for the United States. For example, Thailand requires certification that the U.S. is free of Bovine Spongiform Encephalopathy (BSE). Although trade has not been significantly affected to date, Thailand wants the U.S. to provide a statement of specific rendering procedures used in order to determine that these procedures are sufficient to inactivate the BSE agent in such products as meat and bone meal which is used for animal feed and in manufacturing pet food.

IMPORT TAXES AND CUSTOMS REGULATIONS

For several years, foreign companies and their importers in Thailand have encountered inconsistencies in the operations of the Thai Customs Department particularly for goods valuation. To abide by the GATT Valuation System (GVS), Thailand announced its new customs valuation scheme on March 8, 2000, which became

effective on January 1, 2000. Under the new system, there are 6 methods in order of relevance to calculate the import duty.

- Method 1: Transaction Value of the Imported Goods
- Method 2: Transaction Value of Identical Goods
- Method 3: Transaction Value of Similar Goods
- Method 4: Deductive Value
- Method 5: Computed Value
- Method 6: Fall Back Value

The new regulations have alleviated many valuation problems, although some importers complain of uneven implementation, particularly in the area of intra-company transfers, discounted goods, and promotional items. Progress has been made in reforming payment procedures and broker licensing, but the process continues to be hampered by considerable paperwork and formalities and lack of coordination between customs and other import regulating agencies. Wider computerization is expected to improve efficiency.

By nature, regulations at the Customs Department are subject to frequent changes, which may be difficult for foreigners to observe and follow. It is highly advisable for foreign exporters to have reliable freight forwarding and Customs Clearing companies representing them in the goods clearing process and customs relations in Thailand. Details can be obtained from the Customs Department's website at www.customs.go.th.

In addition to import duties handled by the Customs Department, certain import items are also subject to excise tax. These include gasoline and products thereof, automobiles (less than 10 seats), electrical appliances, beverages, perfume, yachts and vessels for entertainment, lead crystal and other crystals, carpets and woven fur items, motorcycles, batteries, marble and granite, liquor, tobacco, and playing cards. It is worth mentioning that an excise tax is also imposed on local products in the same categories as well as on certain entertainment service providers such as horse racing grounds/clubs and golf clubs.

Excise tax is calculated on CIF value plus import duty, special fees pursuant to the Investment Promotion Act and any other taxes or fees as prescribed by Royal Decree (Excluding VAT). Further information on excise taxes can be obtained from the website of the Excise Tax Department, Ministry of Finance at www.exd.mof.go.th.

IMPORT LICENSE REQUIREMENTS

Import licenses are required for 26 categories of items, down from 42 categories in 1995-1996. Licenses are required for the import of many raw materials, petroleum, industrial, textiles, pharmaceuticals, and agricultural items. Import of some items not requiring licenses nevertheless must comply with applicable regulations of concerned agencies, including extra fees and certificate of origin requirements in some cases. Additionally, a number of products are subjected to import control under other laws:

- Importation of processed foods, medical devices, pharmaceuticals, vitamins, and cosmetics require licensing from the Food and Drug Administration, Ministry of Public Health.
- Importation of tungstic oxide, tin ores, and metallic tin in quantity exceeding two kilograms require permission from the Department of Mineral Resources, Ministry of Industry.
- Importation of arms, ammunition, or explosive devices require licensing from the Ministry of Interior.
- Importation of antiques or objects of art, whether registered or not, require permission from the Fine Arts Department, Ministry of Education.

EXPORT CONTROLS

Products subject to export controls are wildlife, beans, charcoal, coal, coffee, rice, corn, sand, gold, fuel, decorative sea fish and certain species of marine life, fertilizers, Buddha images, teak wood, fresh longans, garments, orchids, donkeys and horses.

For export of garment, textile and apparel products, exporters are required to contact the Department of Foreign Trade, Ministry of Commerce for export quotas prior to shipment.

IMPORT/EXPORT DOCUMENTATION REQUIREMENTS AND CERTIFICATION

General customs clearing procedures for both imports and exports in Thailand require the submission of a Customs' export entry form or import entry form. The form should be accompanied by standard shipping documents, which include: commercial invoice, packing list, bill of lading/airway bill, and letter of credit. Some products may require import/export license and/or authorization from relevant agencies. These include food products (processed or unprocessed), pharmaceuticals, medical devices, healthcare products, cosmetics, hazardous substances, animals, and some agricultural products. As of June 2001, Thailand had yet to eliminate its requirement of a certificate of origin for information technology imports, although it has committed to do so in the near future pursuant to the WTO Information Technology Agreement. In general, use of a freight forwarder to deal with import and export customs clearing in Thailand is highly recommended.

TEMPORARY GOODS ENTRY REQUIREMENTS

Thailand has joined the ATA Carnet System. Therefore, products for exhibitions or demonstrations can be imported for up to 6 months without payment of custom duties and value-added tax. Businesses must obtain a bank guarantee for the value of the imports. If the product is not re-exported within six months, duties and tax will then be levied. The entry of exhibit materials can be handled by freight-forwarding companies for customs clearance and other required procedures. For further information, please contact the Bangkok International Airport Customs House tel: (662) 535-1550, Public Relations Sub-Division, Customs Department tel: (662) 249-9017, 249-3298; Customs Department web site: www.customs.go.th or the Commercial Service Bangkok tel: (662) 205-5090.

LABELING REQUIREMENTS

Labels must be approved by the Thai Food and Drug Administration and affixed to imported food products. Labels must bear the product name, description, net weight or volume and manufacturing/expiration dates. The label must also identify the manufacturer or distributor's name and address, and the product/label registration number. All labels must be printed in Thai with the exception of alcoholic beverages.

To apply for label approval from the Thai Food and Drug Administration Office, one needs to present a certificate of Food Analysis Report issued by the government of the country of origin or any accredited private laboratory. This certificate should be issued not more than one year from the date of the label approval application. The result of the analysis must comply with the quality or standards specified in the Ministry of Public Health's ministerial notification. A copy of the ministerial notification can be obtained in English, free of charge, from the Food and Drug Administration, Ministry of Public Health, Royal Thai government.

Five copies of the original label, together with the Thai labels attached in the way that the food product will be presented for marketing, must be attached to the application.

PROHIBITED IMPORTS

Imports of used motorcycles and parts, household refrigerators using CFCs, and gaming machines are prohibited.

WARRANTY AND NON-WARRANTY REPAIRS

(Duties / taxes charged on replacement parts, or on goods brought in temporarily for repair and re-export)

U.S. companies based in Thailand can be exempted from import duties for items which are brought into the country and which had left the country before. This is

normally the case of repair and service products. The case can fall under one of the following two scenarios:

- Tax of the previous shipment has been reimbursed from the Customs Department. In case the company has applied and been reimbursed for tax from the transaction related to previous shipment, the local company has to process a permit/certificate to allow re-entry of the goods. The said permit application must be placed at the same port as the port of departure from previous outbound shipments. The authorities will check the record of the product to ensure that there has been no modification and changes to product attributes. The goods can stay in Thailand initially up to one year with the possibility of renewal for another year.
- If the exporter in Thailand did not apply for a tax reimbursement, the exporter can collect the goods. No special permit is required. The same time frame as the above case is allowed.

Outbound re-shipment of products involves no duties.

STANDARDS

Thailand's emphasis on exporting makes compliance with international standards important to companies manufacturing here. As of June 2001, 3,323 companies have been certified to be in compliance with ISO 9000 international standards, which represents an 88 percent increase from 2000 (1,770 companies). Four hundred companies have been certified as compliant with ISO 14000 standards; this figure represents an increase of 51 percent from 2000 (265 companies). In addition, there are 63 Thai food processors that have been certified to be in compliance with the Hazard Analysis and Critical Control Point (HACCP) system.

The Thailand Industrial Standards Institute (TISI) is the national standards organization under the Ministry of Industry. TISI is empowered to give product certifications according to established Thai standards and is an accredited body for ISO and HACCP certifications in Thailand. The government of Thailand requires a compulsory certification of sixty products in ten sectors including: agriculture, construction materials, consumer goods, electrical appliances and accessories, PVC pipe, medical, LPG gas containers, surface coatings, and vehicles. Certification of other products is on a voluntary basis. Industrial products that have TISI's certification are generally regarded as having high standards and good quality. TISI has certified more than 1,921 products on a voluntary basis.

FREE TRADE ZONES/WAREHOUSES

Thailand has several Free Trade Zones (FTZs) Export Processing Zones (EPZs). Firms located in FTZs/EPZs are exempt from import duties and other taxes on factory construction materials, machinery and equipment and export manufacturing inputs. Within FTZs/EPZs, foreign investors are permitted to own land and employ foreign

technicians and experts. FTZs/EPZs are (generally) co-located within industrial estates developed either by the Thai Industrial Estate Authority or by the private sector. Therefore, they have full infrastructure facilities and generally good access to transportation.

The Thai Government set up the Eastern Seaboard Development Program in 1981 to establish the country's new industrial development complexes. Laem Chabang Industrial Estate with a Free Trade Zone and Export Processing Zone was established in Chon Buri Province and Map Ta Phut Industrial Estate with a Free Trade Zone in Rayong Province. With the support of a deep-sea port, Laem Chabang Industrial Estate serves agriculture-based and other light industries such as electronics, auto parts, toys and sports goods shipped in container ships. With another deep-sea port, Map Ta Phut Industrial Estate serves heavy industries such as oil refineries, petrochemical plants, chemical plants, and fertilizer plants with bulk cargo service. Private investors have subsequently developed seven more industrial estates in the Eastern Seaboard areas. Now, the National Economic and Social Development Board (NESDB), the national economic policy office, is planning Phase II of the Eastern Seaboard Development Program to be implemented in the next twenty years. Eight additional provinces (for a total of eleven provinces) will be included in the Phase II plan. Five industry sectors will be targeted:

- Chemical and petrochemical industry
- Automobile and spare parts industry
- Metal processing industry
- Air transport export industry which will serve agricultural products, seafood, textile and garments, electrical and electronics appliances, surgical and medical devices, watches and clocks.
- Other support and service industries such as restaurants, medical services, industrial research and educational institutes, financial and banking services, department stores, security services, machinery maintenance services, and construction services.

On May 27, 1999, the Industrial Estate Authority of Thailand announced a one-year investment incentive package to encourage direct investment in three new industrial estates (the Southern Industrial Estate in Chalung, Songkhla Province; the Pichit Industrial Estate in Pichit Province; and the Map Ta Phut Industrial Estate's new community zone). The package provides up to 30 percent discount on land sales and rents, exemption of the first-year rental and maintenance fee, payment extensions and relaxation on collateral.

The Government plans to establish a special economic zone with duty-free zone status to facilitate export-based industries in the Southern Seaboard Area. The National Economic and Social Development Board (NESDB) has conducted a study of this project funded by the Japanese International Cooperation Agency (JICA). In addition, on June 2, 1997, the NESDB hired a U.S.-led consortium under the sponsorship of the U.S. Trade and Development Agency (TDA) to undertake a feasibility study on the development of a

Southern Seaboard Ports and Industrial Complex development project. However, because of the economic crisis, the project has been put on hold.

The Customs Department allows larger firms, engaged exclusively in manufacturing for export, to set up bonded warehouses and to import (duty-free) inputs for their export production. Producers who receive approval to establish bonded warehouses pay an annual fee and avoid paying duties if they submit guarantees for duties.

SPECIAL IMPORT PROVISIONS

Thailand maintains anti-dumping laws, under which the Thai Ministry of Commerce has levied special fees on some imported goods from certain countries. No U.S. goods have been affected.

MEMBERSHIP IN FREE TRADE ARRANGEMENTS

Thailand is a member of the Association of Southeast Asian Nations (ASEAN). In 1992, leaders of ASEAN governments approved a Thai proposal to establish the ASEAN Free Trade Area (AFTA), which aims to reduce tariffs on most processed agricultural and industrial products traded among ASEAN countries, to zero to 5 percent for most members, including Thailand, by 2003. ASEAN is examining the possibility of special trade relationships with Australia and New Zealand, China, South Korea, and Japan.

Thailand is not party to any bilateral free trade agreements but reportedly has explored the possibility of negotiating one with several candidates, including South Korea, Australia, Croatia, and the Czech Republic. It is a member of BIMSTEC – Bangladesh, India, Myanmar, Sri Lanka, Thailand Economic Cooperation.

CUSTOMS CONTACT INFORMATION

Import-export statistics and import tax rates can be accessed from the customs website at www.customs.go.th.

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